

**BOBBY JINDAL**  
GOVERNOR



**PEGGY M. HATCH**  
SECRETARY

**State of Louisiana**  
**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**OFFICE OF ENVIRONMENTAL COMPLIANCE**

September 27, 2012

CERTIFIED MAIL (7004 2510 0006 3853 1618)  
RETURN RECEIPT REQUESTED

**STOLTHAVEN NEW ORLEANS, L.L.C.**

c/o S. Ault Hootsell, III  
Agent for Service of Process  
365 Canal Street, Suite 2000  
New Orleans, LA 70130

**RE: NOTICE OF POTENTIAL PENALTY**  
**ENFORCEMENT TRACKING NO. WE-PP-12-01045**  
**AGENCY INTEREST NO. 87738**

Dear Sir:

On or about September 25, 2012, a file review of the **Stolthaven New Orleans LLC - SHVNN** Facility, owned and/or operated by **STOLTHAVEN NEW ORLEANS, L.L.C. (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Water and Air Quality Regulations. The facility is a bulk liquid storage and transfer facility and a centralized waste treatment facility which is located at 2444 English Turn Road, Braithwaite, Plaquemines Parish, Louisiana.

The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0114405 with an effective date of July 1, 2007, and an expiration date of June 30, 2012. The Respondent submitted a timely permit renewal application on or about December 11, 2011, and LPDES permit LA0114405 has been administratively continued. Under the terms and condition of LPDES permit LA0114405, the Respondent is authorized to discharge treated wastewater from Outfalls 001, 002, 003, and 005 directly to the Mississippi River and from Outfalls 005-012 to the Braithwaite Canal via local drainage, all waters of the state.

On August 27, 2012, the National Weather Service issued a public advisory to Southeast Louisiana to expect 6 to 12 feet of storm surge, and on the same day the Department contacted the Respondent to determine if pre-hurricane procedures had been implemented and whether any assistance from the Department was needed. The Respondent indicated that pre-hurricane procedures were implemented and that no assistance from the Department was needed.

On or about August 27, 2012, the Declaration of Emergency and Administrative Order-Hurricane Isaac was issued, which allowed facilities located within the emergency areas to discharge certain types of wastewater that would normally require an LPDES permit from the Department, provided that certain terms and conditions of Declaration of Emergency and Administrative Order-Hurricane Isaac were met.

On or about September 1, 2012, the Respondent submitted an online notification to the Department regarding a spill incident which occurred as a result of Hurricane Isaac, which made landfall in Plaquemines Parish, Louisiana, on August 28, 2012. The Respondent stated that during Hurricane Isaac, the facility was inundated with flood waters from the storm surge resulting in tank H-30-6 being damaged allowing octene to be released at the facility. The Respondent initially reported worst-case estimates for release amounts.

On or about September 4, 2012, the Respondent verbally notified the DPS Hazardous Materials Hotline that unknown amounts of a lube oil (reported as Ultra-S4) and an oil additive (reported as Vivatech) were released from tank failures during the hurricane. The Respondent further reported that the octene release previously reported on September 1, 2012, had discharged offsite due to flooding at the facility. On or about September 5, 2012, and September 11, 2012, the Respondent submitted written reports to the Department for the octene and Ultra-S4/Vivatech releases, respectively.

On or about September 11, 2012, and September 13, 2012, the Respondent verbally notified the DPS Hazardous Materials Hotline regarding various potential tank releases due to damage from the hurricane's storm surge. On or about September 18, 2012, and September 19, 2012, the Respondent submitted amended written reports to update the previously reported estimated release quantities for octene, Ultra-S4, and Vivatech, as well as a comprehensive list of the materials stored onsite at the time of the hurricane along with their calculated quantities released during the incident.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violation(s) were noted during the course of the file review:

- A. According to the written reports dated September 5, 2012, and September 11, 2012, the Respondents stated that octene, Ultra S-4, and Vivatech were released as a result of tank failures caused by the storm surge of Hurricane Isaac on August 29, 2012, and that a portion of the released materials was discharged offsite with the facility's storm water. According to the written reports dated September 18, 2012, and September 19, 2012, the Respondent stated that the estimated quantities potentially released were as follows:

<b>Material/Pollutant</b>	<b>Estimated Quantity Potentially Released (gallons)</b>
Vivatec	58
Ultra S-4	2,584
Octene	2,883



On or about September 5, 2012, the Respondent notified the Department that the discharges to waters arising from the abovementioned incident were a result of upset conditions in accordance with the Declaration of Emergency and Administrative Order-Hurricane Isaac, and reserved the right to claim an affirmative defense. However, the written reports submitted detailing this incident did not specify or give mention to any measures taken prior to hurricane landfall to minimize the volume and duration of the unauthorized discharges. Each unauthorized discharge to waters of the state is a violation of La. R.S. 30:2075. At the time of the written reports, contaminated storm water remaining onsite after the storm surge receded had been pumped into temporary holding tanks awaiting discharge to the water treatment plant or other appropriate disposal method.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Scott B. Pierce at (225) 219-3723 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement.

For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.

To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,

A handwritten signature in blue ink, appearing to read 'CSN', followed by a long horizontal flourish.

Cheryl Sonnier Nolan  
Assistant Secretary